



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 21-007  
Site Plan No. 82001022C  
Olney Theatre Center  
Date of Hearing: January 21, 2021

**FEB 23 2021**

**RESOLUTION**

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, under Section 59-7.7.1.B.1, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014; and

WHEREAS, on May 31, 2001, the Planning Board, by Opinion mailed on July 3, 2001, approved Site Plan No. 820010220 for 30,250 square feet of theatre, classroom, lobby, and office; 5,460 square feet of recital hall and lobby; 3,000 square feet of scene shop expansion; to be added to 27,180 square feet of existing arts center including existing theater, studio<sup>1</sup>, office, classrooms, performers' quarters, scene shop and gate house<sup>2</sup> on 10.6 acres of Planned Cultural Center (PCC) zoned-land, located at 2001 Olney-Sandy Spring Road, approximately 60 feet west of Doctor Bird Road, and including Part of Parcel A shown on Record Plat 18989 ("Subject Property"), in the Olney Policy Area and 2005 Olney Master Plan ("Master Plan") area; and

WHEREAS, on March 26, 2020, the Planning Board approved an amendment to Site Plan No. 82001022A (MCPB No. 20-021) to build a 3,393 square foot addition to the existing Mulitz-Gudelsky Theatre Lab on the Subject Property; and

WHEREAS, on August 18, 2020, the Planning Director approved an amendment to Site Plan No. 82001022B to install site elements and construct a parking lot on the Subject Property; and

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<sup>1</sup> The Mulitz-Gudelsky Theatre Lab is referred to as "Studio" in prior resolutions, including Site Plan No. 820010220.

<sup>2</sup> The Gate House is also known as the "Stone Cottage."

WHEREAS, on September 11, 2020, Olney Theatre Center ("Applicant") filed an application for approval of an amendment to the previously approved site plans to add multiple additions to the existing theatre buildings, totaling 17,622 square feet on the Subject Property; and

WHEREAS, the application to amend the site plan was designated Site Plan No. 82001022C, Olney Theatre Center ("Site Plan," "Amendment," or "Application"); and

WHEREAS, under Section 59-7.7.1.C.4, the Planning Board reviewed this Application under the procedures and standards of the Zoning Ordinance in effect on October 30, 2014; and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated January 8, 2021, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on January 21, 2021, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by motion of Commissioner Cichy, seconded by Commissioner Verma, with a vote of 5-0, Chair Anderson, Vice-Chair Fani-Gonzalez, Commissioners Cichy, Patterson and Verma voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82001022C for multiple additions to the existing theatre buildings, totaling 17,622 square feet by adding the following conditions:<sup>3</sup>

The development must comply with the conditions of approval for Development Plan No. 630, Site Plan No. 820010220, Site Plan No. 82001022A, and Site Plan No. 82001022B which remain valid and in full force and effect.

## **Density and Height**

### **1. Density**

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<sup>3</sup> For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner, or any successor(s) in interest to the terms of this approval.

The Site Plan Amendment is limited to a maximum of 17,622 square feet of development on the Subject Property, including a 5,273 Education Wing, a 3,152 square foot addition to the Original Theatre, 8,243 square foot Production Building, and a 954 square foot Storage Building.

2. Height

The Amendment is limited to a maximum height of 45 feet, as measured from the building height measuring points, as illustrated on the Certified Site Plan ("CSP").

3. Phasing

Prior to Use and Occupancy Certificate for any building in the first phase of construction, the Applicant must install the internal crosswalk striping and sidewalk connections depicted in Phase 1C.

## Site Plan

4. Site Design

a) The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations of the submitted architectural drawings, as determined by M-NCPPC Staff.

5. Lighting

- a) Prior to certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b) All onsite down-lights must have full cut-off or BUG-equivalent fixtures.
- c) Deflectors will be installed on proposed fixtures to prevent excess illumination and glare.
- d) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at the lot line, excluding areas impacted by streetlights within the right-of-way.
- e) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

## Environment

6. Forest Conservation & Tree Save

The development must comply with the Final Forest Conservation Plan and/or Tree Save Plan.

- a) Prior to the start of any demolition, clearing, or grading for the development Application, the Applicant must schedule the required site inspections by the M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
- b) The Applicant must comply with all tree protection measures shown on the approved Amended Final Forest Conservation Plan ("AFFCP"). Tree save measures not specified on the AFFCP may be required by the M-NCPPC Forest Conservation Inspection Staff.
- c) Prior to the start of any demolition, clearing, or grading for the development Application, the Applicant must abandon the entirety of the original Category I Conservation Easement recorded among the County Land Records in Book 59092, Page 267 in a form approved by M-NCPPC. The abandonment document must be recorded in the Montgomery County Land Records by deed.
- d) Prior to the start of any demolition, clearing, or grading for the development Application, the Applicant must record a new Category I Conservation Easement reflecting the entire easement area including the area that is not authorized to be removed and the new 0.03 acres of easement replacement. The new easement agreement must be approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed prior to recordation of the deed of abandonment for the existing conservation easement. The entirety of the existing easement remains in full force and effect until the abandonment document and the revised easement have been approved and recorded in the Montgomery County Land Records.
- e) Prior to demolition, clearing, grading or construction, the Applicant must install permanent conservation easement signage along the perimeter of the conservation easements as shown on the AFFCP or as determined by the Forest Conservation Inspection Staff.
- f) The limits of disturbance ("LOD") shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the AFFCP.

## **Transportation & Circulation**

### **7. Pedestrian & Bicycle Circulation**

- a) The Applicant must provide 8 short-term bicycle parking spaces.
- b) The short-term spaces must be inverted-U racks (or Staff approved equivalent) installed (weather protected preferred). A minimum of 4 short-term spaces must be located in close proximity to the main entrance/ front lobby. The specific location(s) of the short-term bicycle rack(s) must be identified on the Certified Site Plan.

- c) Prior to issuance of a Use and Occupancy Certificate for any building in the first phase of construction, the Applicant must dedicate a minimum of 10 feet of right-of-way from the existing property line on the frontage of MD 108, as shown on the Certified Site Plan. The area of dedication must provide adequate land to accommodate a 10-foot-wide shared-use-path and associated stormwater management facilities.
  - d) The Applicant must provide the following master planned pedestrian and bicycle facilities, the exact location, design, and construction of which must comply with requirements set forth by the Montgomery County Department of Transportation ("MCDOT"), Division of Transportation Engineering:
    - i. Prior to approval of Certified Site Plan, the Applicant must provide detailed 30% design plans for the 10-foot-wide shared-use path between the signalized intersection of MD 108/Dr. Bird Road to the eastern property line. The design plans must provide the following details: grading, clearing, stormwater management, 10-foot-wide public utility easement ("PUE"), and utility relocation if needed. The design plans must receive approval from M-NCPPC staff, MCDOT and the Maryland State Highway Administration ("MDSHA").
    - ii. Prior to issuance of any Use and Occupancy Certificate for the second phase of development, the Applicant must construct the shared-use path as shown on the CSP and 30% design plans.
8. The Planning Board accepts the recommendations of the MDSHA in its correspondence dated December 16, 2020, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letters, which may be amended by MDSHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
9. Fire and Rescue  
The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS"), Fire Department Access and Water Supply Section in its correspondence dated November 20, 2020, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Preliminary Plan approval.
10. Right-of-Way  
The Planning Board has reviewed and accepts the recommendations of the MCDPS, Right-of-Way Section in its letter dated January 5, 2021, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the memorandum, which MCDPS



may amend if the amendments do not conflict with other conditions of Site Plan approval.

**11. Stormwater Management**

The Planning Board has reviewed and accepts the recommendations of the MCDPS, Water Resources Section in its stormwater management concept letter dated December 3, 2020 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which the MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of Site Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.

**12. Site Plan Surety and Maintenance Agreement**

Prior to issuance of any building permit, sediment control permit, or Use and Occupancy Certificate, for each Phase of development, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4 of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, site furniture, trash enclosures, retaining walls, fences, railings, sidewalks, paths, and associated improvements of development, including sidewalks, bikeways, and storm drainage facilities. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

**13. Development Program**

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

**14. Certified Site Plan**

Before approval of the Certified Site Plan, the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include the stormwater management concept approval letter, development program, and Site Plan resolution on the approval or cover sheet(s).
- b) Amend the Green Area calculations in the Site Plan Data Table to account for the right-of-way dedication for MD-108, as shown on the CSP.
- c) Amend the phasing plan to clearly identify the internal crosswalk striping and sidewalk connections depicted in Phase 1C, that must be constructed in the first phase of development.
- d) Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- e) Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- f) Modify data table to reflect development standards approved by the Planning Board.
- g) Ensure consistency of all details and layout between Site and Landscape plans.

BE IT FURTHER RESOLVED that all other site plan conditions of approval for this project remain valid, unchanged and in full force and effect

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Olney Theatre center, Site Plan No.82001022C, submitted via ePlans to the M-NCPPC as of the date of this Staff Report, are required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and set forth in this Staff Report, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan as revised by previous amendments, and all findings not specifically addressed remain in effect.*

The Site Plan Amendment was reviewed under the Zoning Ordinance in effect on October 30, 2014 because it exceeds the density limitations allowed under the grandfathering provisions set forth in Section 7.7.1.B.1 of the Zoning Ordinance.

2. *When reviewing an application, the approval findings apply only to the site covered by the application.*

The Approval of the Site Plan findings will only apply to the Subject Property being reviewed as part of this Application.

3. *To approve a site plan, the Planning Board must find that the proposed development:*

- a. *satisfies any previous approval that applies to the site;*

Except as modified herein, the development will continue to satisfy all previous approvals.

- b. *satisfies under Section 7.7.1.B.5 the binding elements of any development plan or schematic development plan in effect on October 29, 2014;*

The Amendment continues to conform to all non-illustrative elements of the Development Plan (G-630), including the minimum building setbacks, minimum green area, and maximum height, enumerated in the Data Table below. There are no binding elements associated with the Development Plan.

- c. *satisfies under Section 7.7.1.B.5 any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment;*

The PCC Zone under Section 59.8.3.6.C.2.b requires that a minimum of 30%, or 3.18 acres, of the total site area included in the Development Plan be maintained as green area. The Amendment provides 60.5% or 6.4 acres of green area on-site, continuing to exceed the minimum required in the PCC Zone.

- d. *satisfies applicable use standards, development standards, and general requirements under this Chapter;*

The Subject Property is approximately 10.6 acres and is zoned PCC. The Amendment meets all of the requirements and development standards of the PCC Zone, including building setbacks, building coverage, and green area. The PCC Zone also requires off-street parking to be provided, as determined at Site Plan.



**Table 1 – Data Table**

<b>Development Standard</b>	<b>Permitted/ Required PCC zone</b>	<b>LMA G-630</b>	<b>Site Plan No. 82001022B</b>	<b>Approved Site Plan No. 82001022C</b>
<b>Lot and Density</b>				
Lot Area (Minimum)	5 ac		10.60 ac / 461,736 s.f.	10.60 ac / 461,736 s.f.
Proposed Dedication (MD 108) <sup>4</sup>				5,000 s.f. max.
Site Area (net tract area)				10.48 ac / 456,736 s.f. min.
<b>Setbacks and Screening</b>				
Min. building setback - From confronting or abutting residential property	100 ft.	Greater than 100 ft.	Greater than 100 ft.	284 ft.
- From any boundary line shown on the development plan	30 ft.	Greater than 30 ft.	Greater than 30 ft.	76 ft.
<b>Building Height</b>				
- Education Wing	50 ft. max.	50 ft. max	-	40 ft.
- Original Theatre	50 ft. max.	50 ft. max	-	40 ft.
- Production Building	50 ft. max.	50 ft. max	-	45 ft.
<b>Coverage and Green Area</b>				
- Max. building coverage	30% / 3.18 ac	30% / 3.18 ac	12% / 1.27 ac	13.4% / 1.41 ac
- Min. green area	30% / 3.18 ac	30% / 3.18 ac	56.4% / 5.98 ac	54.6% / 5.73 ac

<sup>4</sup> The Applicant is proffering additional right-of-way dedication for the future construction of a 10-foot-wide shared use path on MD 108, per the 2018 Bicycle Master Plan.

## Division 6 – General Development Standards

### *i. Division 6.1. Site Access*

The Property is accessible from MD 108 via three separate entrances. The eastern most access point is accessible from westbound MD 108 and is predominately used to access the rear parking lots. The central or main entrance and exit are at the signalized intersection of MD 108 and Dr. Bird Road. This main access point connects to the rear parking lots and drive-aisle in front of the main building entrance. The third access point is only accessible from westbound MD 108 and connects to the front parking lot and aforementioned drive aisle.

### *ii. Division 6.2. Parking, Queuing, and Loading*

Section 59.8.3.6.C.3 of the Zoning Ordinance states that, in the PCC zone, off-street parking must be provided under Division 6.2, however, the PCC zone (floating zones in general) are not listed in Section 6.2.4.B, the vehicle parking table or Section 6.2.4.C, the bicycle parking table. Therefore, motorcycles spaces, and vehicle charging stations are not proposed. However, four U-style bike racks, capable of accommodating eight bicycles, are being provided, two of which will be located near the front main entrance (lobby) and two of which are being installed east of the Storage Building. Locating the racks along the primary pedestrian route between the Courtyard and rear parking lot, provides a safe and accessible location.

Site Plan No. 82001022B included 262 vehicle parking spaces, of which 247 spaces are required based on existing seating and employees (per the 2004 Zoning Ordinance). No additional parking is required as part of this Amendment. The proposed building additions and modifications do not include additional patron seating or expansion of existing uses that result in additional staff.

Because the proposed additions do not increase the number of employees or seating capacity, the Amendment does not require additional parking. However, one additional parking spot was provided as part of the previously approved field changes and will be incorporated into the record as part of this Amendment.

While loading is not required by the Code, as part of Phase 1B a loading dock will be incorporated to the north of the Scene Shop, between the new Storage Building and Production Area, where the shipping containers (temporary storage) are located. The loading area and new parking lot striping will provide a safe, adequate, and efficient area to manage movement of production materials and supplies, without affecting the on-site circulation.

iii. *Division 6.3. Open Space and Recreation*

Under the PCC Zone, the Application is required to provide green area rather than open space and recreation. The Application adequately meets this requirement by providing a minimum of 54.6 percent or 5.73 acres of green area. After dedicating a maximum of 5,000 square feet for the construction of the shared use path on MD 108, the Application will continue to provide more than the minimum 30 percent or 3.18 acres of green area required in the PCC zone.

iv. *Division 6.4. General Landscaping and Outdoor Lighting*

The Applicant will be planting a variety of native trees and shrubs throughout the Property to accent the perimeter of the proposed buildings and provide additional shade. New lighting is limited to wall mounted sconces and accent light, not required by the Zoning Ordinance. A revised photometric plan submitted by the Applicant shows that the lighting will remain adequate to illuminate the Property, creating a safe environment, without creating light spillage or excessive glare on adjacent properties or rights-of-way. As conditioned, all site lighting provides adequate, safe, and efficient illumination.

v. *Division 6.5. Screening Requirements*

Additional screening is not required for this Amendment.

e. *satisfies the applicable requirements of:*

i. Chapter 19, Erosion, Sediment Control, and Stormwater Management; and

The Application has been reviewed by the MCDPS Water Resources Section, which, in a letter dated December 3, 2020, determined that the proposed stormwater management concept, which utilizes microbioretention and bioswales to manage the quantity and quality of the projected stormwater runoff associated with the proposed improvements, is adequate.

ii. Chapter 22A, Forest Conservation.

Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) No. 420200650, which was approved on January 15, 2020, covers the Subject Property and the adjacent Parcel 718, which is between the Subject Property and Old Vic Road. The Overall Property is located within the Hawlings River – James Creek which is classified by the State of Maryland as Use Class IV-P waters. The Overall Property contains 5.43 acres of forest and one stream. A small wetland has developed in the southwest corner of the Subject Property near a small stone cottage. This area had previously been designated as a storm water retention pond under the original Site Plan, Plan No. 820010220, and over the years has developed into a small pond with a wetland border. This pond and wetland function as a storm water management facility and are within a storm water management easement. As such, this area is not subject to environmental regulation as would typically be the case. There is a very short segment of an intermittent stream on the Subject Property that flows off-site from the pond/wetland. There is a 125-foot stream buffer associated with this stream.

**Final Forest Conservation Plan Amendment**

An Amended Final Forest Conservation Plan (“AFFCP”) was submitted with this Application. This AFFCP revises the previously approved limits of disturbance (“LOD”), providing for the expansion of the existing facilities by 17,622 square feet. In addition, the AFFCP also shows the proposed installation of the Bikeway Master Plan recommended shared use path along MD 108. The AFFCP also shows the currently proposed alterations to the Subject Property as required under Section 22A.00.01.09.B of the Forest Conservation Regulations.

The AFFCP does not alter any of the previously approved forest conservation requirements associated with the original FFCP No. 820010220. The Applicant is still retaining 1.68 acres of forest and all forest conservation requirements have been satisfied under the original approval.

Installation of the shared use path along MD 108 will require the abandonment of a portion of the existing Category I Conservation Easement (“Easement”) located along the eastern property line. The shared use path will require the removal of 1,179 square feet (0.03 acres) of the existing Easement closest to MD 108. The Easement will be replaced at a 1:1 rate by adding 0.03 acres to an on-site area of existing forest adjacent to the Easement and located between the Easement and the Subject Property access drive.

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

#### Forest Conservation Variance

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law ("FCL") provides criteria that identify certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these trees, including removal of the subject tree or disturbance within a tree's critical root zone ("CRZ") requires a variance.

An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater diameter breast height ("DBH"); are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion tree; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

The Applicant submitted a request letter dated July 20, 2020 for removal of one (1) tree and impact to the CRZ of five (5) trees that are 30 inches or greater DBH and are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law (Table 2).

Tree #	Species	DBH Inches	% CRZ Impacts	Status
1	Tulip Poplar ( <i>Liriodendron tulipifera</i> )	32"	18%	To be saved, impacts only
3	Tulip Poplar ( <i>Liriodendron tulipifera</i> )	34"	46%	To be removed
50	Tulip Poplar ( <i>Liriodendron tulipifera</i> )	46"	8%	To be saved, impacts only
52	Tulip Poplar ( <i>Liriodendron tulipifera</i> )	48"	11%	To be saved, impacts only
53	Tulip Poplar ( <i>Liriodendron</i> )	46"	5%	To be saved, impacts only



	<i>tulipifera)</i>			
55	Black Oak ( <i>Quercus velutina</i> )	34"	4%	To be saved, impacts only

Table 2: Specimen Tree Impact or Removal

Unwarranted Hardship Basis

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. For Protected Trees 1 and 3, the unwarranted hardship is caused by the requirement to address the recommendations in the Olney Master Plan and the Bikeway Master Plan to install a shared use path with grass buffer along MD 108. The installation of this shared use path will impact the CRZ of one Protected Tree and warrant the removal of one Protected Tree. The inability to impact these trees would prevent the construction of this shared use path recommended in both Master Plans. For Trees 50, 52, 53 and 55, the unwarranted hardship is caused by the location of a small addition to the Main Theatre for an Educational Wing along with an associated SWM facility. The 5,273 square foot Educational Wing is located immediately adjacent to and north of the Main Stage of the Theatre complex. The Property is very constrained with the existing theatre complex, existing necessary parking, storm water management structures and forest conservation easements. The Educational Wing has been located in the only open space available on the property to accommodate this expansion. This open area is bordered by an existing Category II Conservation Easement on the north and west sides which contains a number of large diameter Protected Trees. Staff has reviewed the FFCP and has determined that the inability to minimally impact Trees 50, 52, 53 and 55 would prevent the construction of the Educational Wing. Therefore, Staff concurs that the Applicant has a sufficient unwarranted hardship to justify a variance request to impact or remove the trees listed in Table 2.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted.

In accordance with Section 22A-21(a), the Applicant has requested a Variance and the Board agreed that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board made the following findings necessary to grant the Variance:

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as the removal of the one tree is due to the location of the tree and necessary site design requirements. The Applicant proposes removal of Tree #3 with mitigation. Therefore, the granting of this variance is not a special privilege that would be denied to other applicants.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions and necessary design requirements to install the shared use path.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The variance is a result of the existing conditions and not as a result of land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen tree being removed is not located within a stream buffer, wetland, or special protection area. The Application proposes mitigation for the removal of one specimen tree by planting larger caliper trees on-site. Therefore, the Application will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provision - There is one specimen tree proposed for removal in this variance request resulting in a total of 34.0 inches of DBH being removed. The tree being removed is located within an existing forest stand and Category I Conservation Easement on the Subject Property. It has been M-NCPPC policy not to require mitigation for specimen trees removed within forest stands since the removal of the forest stand is compensated for through the Forest

Conservation Worksheet. In this case, additional forest is being protected by adding new Category I Conservation Easement to compensate for the loss of the portion of conservation easement in which the specimen tree is located.

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection. The request was forwarded to the County Arborist on September 14, 2020. The County Arborist recommended approval on September 25, 2020.

As conditioned, the Amended Final Forest Conservation Plan satisfies all applicable requirements of Chapter 22A of the County Code.

*f. provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities;*

*i. Parking and circulation*

**Pedestrian and Vehicular Circulation**

The Amendment continues to provide a safe, adequate, and efficient circulation pattern on-site. The revisions proposed by this Amendment do not significantly affect the existing parking and circulation patterns. New crosswalks will be added to the southern parking lot and proposed eastern sidewalk leading to the Theatre Lab, providing safe and efficient pedestrian access.

*ii. Building massing*

**Location of Buildings and Structures**

The location and orientation of the new Education Wing helps frame the existing outdoor patio and incorporates building elements that enhance the pedestrian dominated side of the building. The locations of the buildings and structures, both existing and as amended, remain adequate, safe, and efficient.

*iii. Open space, and site amenities*

**Location of Open Spaces, Landscaping and Recreation Facilities**

No changes are proposed to the landscaping and lighting with the exception of wall mounted lighting fixtures that will illuminate the sidewalks. The proposed additions are incorporated in the existing site design in a way that is cohesive and attractive.

- g. substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;*

2005 Olney Master Plan

The Amendment substantially conforms to the recommendations of the 2005 *Olney Master Plan*.

Olney Theatre is discussed on page 135 of the 2005 *Olney Master Plan*. The Master Plan recommendation is to “support the Olney Theatre’s existing and future plans for potential future expansion.” The Master Plan only slightly elaborates on this recommendation by stating that “[f]uture additions and improvements to the theater should be consistent with the Plan’s vision of the Olney Theatre as a unique cultural facility that can co-exist in harmony with its neighbors and continue to add richness to Olney’s quality of life.” The Amendment is consistent with the vision of the Master Plan, which will continue adding value to the Olney community. The Amendment retains the existing forest between the parking lot and the adjoining residential subdivision, which continues to provide an adequate visual buffer between the uses. The proposed expansion is modest in size and in harmony with the existing theater complex and the neighborhood.

**Master-Planned Roadway and Bikeways**

2018 Master Plan of Highways and Transitways

Per the 2018 Master Plan of Highways and Transitways (“MPHT”), Olney Sandy Spring Road (MD 108) is identified as a four-lane Major Highway with a 150 foot right-of-way west of the intersection of MD 108 and Doctor Bird Drive and to the east of the intersection, Olney Sandy Spring Road is identified as a 2 lane arterial with an 80 foot right-of-way. The Applicant previously dedicated the necessary right-of-way recommended by the MPHT; therefore, no additional dedication is necessary to find master plan conformance.

2018 Bicycle Master Plan

The 2018 Bicycle Master Plan recommends a 10-foot-wide, asphalt shared-use sidepath with a 5-foot-wide minimum landscape buffer along the frontage of the

Subject Property on MD 108. There's an existing 8-foot-wide shared use path along the frontage of the Property on Olney-Sandy Spring Road and west of the signalized intersection with Doctor Bird Road, which will remain. The section of frontage (~450 feet) between the intersection and the eastern Property line has not been improved. To satisfy the Bicycle Master Plan recommendations, the Applicant is proposing to dedicate additional land to facilitate construction of the remaining path on the elevated bank, providing separation from the road. The Applicant's alternative alignment appears to eliminate the need for extensive grading, retaining walls and relocation of existing mechanical and structural components. As conditioned, the Applicant will satisfy the 2018 Bicycle Master Plan in three steps. Prior to certification of the Site Plan Amendment, the Applicant will provide a 30% design drawing for the alternative path alignment, identifying the amount of land necessary to construct the path, including the associated grading and stormwater management. Prior to issuance of a Use and Occupancy Certificate for any building in the first phase of construction, the Applicant will dedicate the additional right-of-way identified on the CSP to MDSHA (by deed or other manner acceptable to MDSHA). Finally, prior to issuance of any Use and Occupancy Certificate for any building included in the second phase of development, the Applicant will construct the 10-foot-wide shared use path and associated improvements as shown on the CSP.

There's an active Capital Improvements Project which is currently funded for 30% design. Based on the most recent plans (unapproved), the path would be constructed within the existing right-of-way for MD-108, parallel to the existing road. Due to existing site conditions (in the existing right-of-way), construction of the path will require extensive grading, installation of 6-8 foot tall retaining walls, relocation of existing utility controls, and potential relocation of a signal support arm.

As conditioned, the Applicant will construct the shared use path within this area, deemed the most suitable location for this path, as it has minimal grading and utility infrastructure. A revision to the existing public utility easement (PUE) will be completed by the Applicant to accommodate a standard 10-foot-wide PUE beyond the right-of-way line.

Thus, with the improvements described in this section, the development is consistent with the 2005 Olney Master Plan, 2018 Master Plan of Highways and Transitways, and the 2018 Bicycle Master Plan.

- h. will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the development is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate*



*public facilities test is required the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;*

### **Local Area Transportation Review**

A traffic study is not required to satisfy the Local Area Transportation Review test because the Amendment generates fewer than 50 person trips in the peak hour, which occurs within the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak periods.

No additional trips are anticipated to be generated by the Amendment, as stated in the Applicant's Traffic Exemption Statement, dated May 22, 2020. The Application does not include an increase in occupancy load (seating) of the Theatre. The proposed Education Wing includes classrooms, but classes are not formatted the same way as a private school. The majority of the improvements are minor expansions of existing uses, back of house space, and associated aesthetic improvements that will not generate any new AM or PM peak hour trips.

The Amendment has been reviewed by the Montgomery County Department of Permitting Services, Fire Department Access and Water Supply Section which determined that the Property, with the improvements proposed by the Amendment, has adequate access for fire and rescue vehicles, as indicated by a transmittal dated November 20, 2020.

The Amendment has been reviewed by the Montgomery County Department of Permitting Services, Right-of-Way Section which recommended approval of the Amendment, with conditions by transmittal dated January 5, 2021.

- i. on a property in all other zones, is compatible with existing and approved or pending adjacent development.*

The proposed additions and renovations are compatible with the existing building on the Subject Property. The architecture is simple and modern, taking cues from the existing buildings and recently renovated Theatre Lab. The three buildings being constructed/modified are 40-45 feet tall, below the maximum 50-foot height limit in the Development Plan and the existing buildings on-site. The new additions tie into the existing structures in a contextual manner that retains the existing pedestrian and vehicular flow and function of the facility.

BE IT FURTHER RESOLVED that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that this Site Plan shall remain valid as provided in Montgomery County Code § 59-7.3.4.H; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is FEB 23 2021 (which is the date that this resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Vice Chair Fani-González, seconded by Commissioner Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor, at its regular meeting held on Thursday, February 18, 2021, in Wheaton, Maryland.



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Casey Anderson, Chair  
Montgomery County Planning Board